

Bureau of Indian Affairs, Interior

§ 162.571

(1) The required consents have not been obtained from the parties to the lease;

(2) The requirements of this subpart have not been met; or

(3) We find a compelling reason to withhold our approval in order to protect the best interests of the Indian landowners.

(b) We will defer, to the maximum extent possible, to the Indian landowners' determination that the WSR lease is in their best interest.

(c) We may not unreasonably withhold approval of a WSR lease.

§ 162.567 When will a WSR lease be effective?

(a) A WSR lease will be effective on the date that we approve the lease, even if an appeal is filed under part 2 of this chapter.

(b) The lease may specify a date on which the obligations between the parties to the lease are triggered. Such date may be before or after the approval date under paragraph (a) of this section.

§ 162.568 Must a WSR lease document be recorded?

(a) Any WSR lease document must be recorded in the LTRO with jurisdiction over the leased land.

(1) We will record the lease document immediately following our approval.

(2) If our approval of an assignment or sublease is not required, the parties must record the assignment or sublease in the LTRO with jurisdiction over the leased land.

(b) The tribe must record lease documents for the following types of leases in the LTRO with jurisdiction over the tribal lands, even though BIA approval is not required:

(1) Leases of tribal land that a corporate entity leases to a third party under 25 U.S.C. 477; and

(2) Leases of tribal land under a special act of Congress authorizing leases without our approval.

§ 162.569 Will BIA require an appeal bond for an appeal of a decision on a WSR lease document?

(a) If a party appeals our decision on a WSR lease, assignment, amendment, or sublease, then the official to whom

the appeal is made may require the appellant to post an appeal bond in accordance with part 2 of this chapter. We will not require an appeal bond:

(1) For an appeal of a decision on a leasehold mortgage; or

(2) If the tribe is a party to the appeal and requests a waiver of the appeal bond.

(b) The appellant may not appeal the appeal bond decision. The appellant may, however, request that the official to whom the appeal is made reconsider the bond decision, based on extraordinary circumstances. Any reconsideration decision is final for the Department.

WSR LEASE AMENDMENTS

§ 162.570 May the parties amend a WSR lease?

The parties may amend a WSR lease by obtaining:

(a) The lessee's signature;

(b) The Indian landowners' consent under the requirements in § 162.571; and

(c) BIA approval of the amendment under §§ 162.572 and 162.573.

§ 162.571 What are the consent requirements for an amendment to a WSR lease?

(a) Unless the lease provides otherwise, the lessee must notify all Indian landowners of the proposed amendment.

(b) The Indian landowners, or their representatives under § 162.013, must consent to an amendment of a WSR lease in the same percentages and manner as a new WSR lease under § 162.012, unless the lease:

(1) Provides that individual Indian landowners are deemed to have consented if they do not object in writing to the amendment within a specified period of time following the landowners' receipt of the amendment and the lease meets the requirements of paragraph (c) of this section;

(2) Authorizes one or more representatives to consent to an amendment on behalf of all Indian landowners; or

(3) Designates us as the Indian landowners' representative for the purposes of consenting to an amendment.

(c) If the lease provides for deemed consent under paragraph (b)(1) of this